

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**Petition for Relief from a Conviction or Sentence  
By a Person in State Custody  
(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)**

**INSTRUCTIONS**

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from conviction of the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Your habeas corpus petition must be filed within the 1-year statute of limitations time limit set forth in 28 U.S.C. § 2244(d)(1). (There are limited circumstances in which the petition may be amended, within the one-year time period, to add additional claims or facts, see Federal Rules of Civil Procedure 15; or amended after the one-year period expires, in order to clarify or amplify claims which were timely presented, see United States v. Thomas, 221 F. 3d 430 (3d Cir. 2000)).
4. Make sure the form is typed or neatly written.
5. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
6. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or argument, you must submit them in a separate memorandum.
7. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed in forma pauperis (as a poor person). To do that, you must fill out an Application to Proceed in District Court without Prepaying Fees or Costs. **Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.**

8. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
9. As required by 28 U.S.C. § 2254(b)(1), you must have exhausted all claims that you are making in your petition. This means that every claim must have been presented to each level of the state courts. If you file a petition that contains claims that are not exhausted, the federal court will dismiss your petition. 28 U.S.C. § 2254(b)(2) provides that the federal court may deny your petition on the merits even if you have not exhausted your remedies.
10. As required by 28 U.S.C. § 2244(b)(1), a federal court must dismiss any claim in a second or successive habeas corpus petition that was presented in a prior habeas corpus petition.
11. As required by 28 U.S.C. § 2244(b)(2), a federal court must dismiss any claim in a second or successive habeas corpus petition that was not presented in a prior habeas corpus petition unless you show:
  - (A) the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the U.S. Supreme Court, that was previously unavailable; or
  - (B) (i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence, and (ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable fact finder would have found you guilty of the offense in question.

Before such a second or successive petition may be filed in the district court, however, the petitioner must move in the court of appeals for an Order authorizing the district court to consider the petition. Petitioner's motion for such an Order must be determined by a three judge panel of the court of appeals, which must grant or deny the motion within 30 days. The court of appeals may grant the motion only if it determines that the petition makes a prima facie showing that it satisfies either (A) or (B) above.

12. When you have completed this form, send the original and **these instructions** to the Clerk of the United States District Court at this address:

**Clerk  
United States District Court  
for the Eastern District of Pennsylvania  
601 Market Street, Room 2609  
Philadelphia, PA 19106**

13. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge and you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
14. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS  
BY A PERSON IN STATE CUSTODY**

<b>United States District Court</b>	<b>District: Eastern District of Pennsylvania</b>
<b>Name (under which you were convicted):</b> <u>Tyree Musier</u>	<b>Docket or Case No.:</b>
<b>Place of Confinement:</b> <u>SCI Fayette</u>	<b>Prisoner No.:</b> <u>KM 6761</u>
<b>Petitioner</b> (Include the name under which you were convicted): <u>Tyree Musier</u>	<b>Respondent</b> (Name of Warden, Superintendent, Jailor, or authorized person having custody of petitioner): <u>Superintendent, Tina Walker</u>
V.	
and	
The District Attorney of the County of: <u>Philadelphia</u>	
and	
The Attorney General of the State of: <u>PA</u>	

**PETITION**

- (a) Name and location of court that entered the judgment of conviction you are challenging:  
Court of Common Pleas of Philadelphia County

(b) Criminal docket or case number (if you know): CP 51 CR 0015455-2008
- (a) Date of judgment of conviction (if you know): April 25, 2012

(b) Date of sentencing: April 25, 2012
- Length of sentence: Life imprisonment
- In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No
- Identify all crimes of which you were convicted and sentenced in this case:  
First-degree murder, carrying an outlicensed firearm,  
Carrying a firearm on the streets of Philadelphia  
Possessing an instrument of crime

6. (a) What was your plea? (Check one)

☒ (1) Not Guilty☐ (3) Nolo contendere (no contest)☐ (2) Guilty☐ (4) Insanity plea

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ N/A \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes☒ No

8. Did you appeal from the judgment of conviction?

☒ Yes☐ No

9. If you did appeal, answer the following:

(a) Name of court: Superior Court of PA(b) Docket or case number (if you know): 2575 EDA 2012(c) Result: Judgment of sentence affirmed(d) Date of result (if you know): August 14, 2014

(e) Citation to the case (if you know): \_\_\_\_\_

(f) Grounds raised: (1) evidence insufficient to sustain the convictions  
(2) conviction was against the weight of the evidence  
(3) Commonwealth committed a discovery violation that caused a mistrial

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(g) Did you seek further review by a higher state court?

☒ Yes☐ No

If yes, answer the following:

- (1) Name of court: Supreme Court of PA
- (2) Docket or case number (if you know): 421 EAL 2014
- (3) Result: Discretionary review denied
- (4) Date of result (if you know): April 1, 2015
- (5) Citation to the case (if you know): \_\_\_\_\_
- (6) Grounds raised: See response to #9(f)

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes ☒ No

If yes, answer the following:

- (1) Docket or case number (if you know): \_\_\_\_\_
- (2) Result: N/A
- (3) Date of result (if you know): \_\_\_\_\_
- (4) Citation to the case (if you know): \_\_\_\_\_

(i) Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

☒ Yes ☐ No

10. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: Court of Common Pleas of Philadelphia County
- (2) Docket or case number (if you know): CP 51 CR 0015455-2008
- (3) Date of filing (if you know): April 21, 2015
- (4) Nature of the proceeding: PCRA petition
- (5) Grounds raised: (1) trial counsel was ineffective for "opening the door" to allowing in evidence that Commonwealth witness was threatened.  
(2) trial counsel was ineffective for failing to object to prosecutor's closing argument  
(3) trial counsel was ineffective for failing to object to the court's instructions on third degree murder and prior statements  
(4) all prior counsel were ineffective for failing to preserve the court's error in denying a mistrial.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: PCRA petition dismissed

(8) Date of result (if you know): February 25, 2021

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: N/A

(8) Date of result (if you know): \_\_\_\_\_

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: N/A

(8) Date of result (if you know): \_\_\_\_\_

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion:

(1) First petition:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
(2) Second petition:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(3) Third petition:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

My lawyer decided on his own to not pursue discretionary relief before the PA Supreme Court.

11. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**CAUTION:** To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE:** The Commonwealth failed to disclose the true nature of the benefits it gave Commonwealth witness Terrell Lewis

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Witness Terrell Lewis had one or more open cases at the time he cooperated against me. He received benefits on or more of those which the Commonwealth failed to disclose. The Commonwealth continues to hide his evidence.



- (b) If you did not exhaust your state remedies on Ground One, explain why:

*All prior counsel failed to preserve this claim even though I directed them to investigate and raise this.*

## (c) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes ☒ No

- (2) If you did not raise this issue in your direct appeal, explain why?

*I tried but my lawyer refused to take this claim seriously.*

## (d) Post-Conviction Proceedings:

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: *Pro se PCRA petition, but counsel failed to raise it.*

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

*See response to #10(a)(1 through 8)*

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

- (4) Did you appeal from the denial of your motion or petition?

☒ Yes ☐ No

- (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

- (6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

*N/A*

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

- (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: ICRA counsel failed to include this claim in the

amended ICRA petition he filed.

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: \_\_\_\_\_

- N/A -

**GROUND TWO:** Trial counsel was ineffective in "opening the door" to allowing in  
evidence that a Commonwealth witness was threatened.

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The trial court excluded any evidence of threats to witness Letasha Austin.  
Yet, trial counsel negligently "opened the door" to this precise information  
by the foolish way he cross-examined the witness.

- (b) If you did not exhaust your state remedies on Ground Two, explain why: \_\_\_\_\_

- N/A -

- (c) **Direct Appeal of Ground Two:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☒ No

- (2) If you did not raise this issue in your direct appeal, explain why? \_\_\_\_\_

*State law forbids such claims on direct appeal.***(d) Post-Conviction Proceedings:**

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

*See response to #10(a)(1) ten of 8*

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

- (3) Did you receive a hearing on your motion or petition?

☐ Yes☒ No

- (4) Did you appeal from the denial of your motion or petition?

☒ Yes☐ No

- (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes ☐ No

- (6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

*Superior Court of PA*

Docket or case number (if you know): \_\_\_\_\_

*617 EDA 2021*

Date of the court's decision: \_\_\_\_\_

*August 9, 2022*

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

- (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_

*N/A*

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: \_\_\_\_\_

N/A

**GROUND THREE:** Trial counsel was ineffective in failing to object to the prosecutor's misconduct in closing argument.

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The trial prosecutor improperly connected me to the evidence & threats and intimidation when no such evidence was introduced into the record.

- (b) If you did not exhaust your state remedies on Ground Three, explain why: My initial PCR A counsel preserved the claim but my attorney on PCR A appeal ineffectively failed to preserve it.

- (c) **Direct Appeal of Ground Three:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes ☒ No

- (2) If you did not raise this issue in your direct appeal, explain why?

State law forbids such claims on direct appeal.

- (d) **Post-Conviction Proceedings:**

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: See response to #10 (a) (1 + Engr 8)

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No(4) Did you appeal from the denial of your motion or petition? ☒ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_

My PCR/A appeals lawyer ineffectively failed to raise it, abandoning the claim.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: \_\_\_\_\_

N/A

**GROUND FOUR:** Trial counsel was ineffective in failing to object to the court's instruction on third-degree murder.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The court's instruction on third-degree murder was erroneous, relieving the Commonwealth of its burden of proof.

(b) If you did not exhaust your state remedies on Ground Four, explain why: \_\_\_\_\_

*See response to Ground Three (b)*

**(c) Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why? \_\_\_\_\_

*See response to Ground Three (c)*

**(d) Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☒ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_ *N/A*

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_

*See response to # Ground Three (7)*

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_

*N/A*

12. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction?

☐ Yes ☒ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: \_\_\_\_\_

*See previous responses.*

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

*See previous responses.*

13. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition?

☐ Yes

☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

*N/A*

14. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging?

☐ Yes

☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised:

*N/A*

15. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: *Gerald Stein, 1500 Market St. #2727  
Pleila. PA 19102*

(b) At arraignment and plea: *unknown*



- (c) At trial: Daniel Alva, now-deceased
- (d) At sentencing: Daniel Alva
- (e) On appeal: Mitchell Spohn  
200 Two Penn Center, Philadelphia PA 19102
- (f) In any post-conviction proceeding: Coley Records, 121 S. Broad St.  
Philadelphia PA 19107
- (g) On appeal from any ruling against you in a post-conviction proceeding: George Yacoubian, 1515 Market St, Ste 1200, Philadelphia PA 19102

16. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?

☐ Yes

☒ No

- (a) If so, give the name and location of the court that imposed the other sentence you will serve in the future: N/A

- (b) Give the date the other sentence was imposed: N/A

- (c) Give the length of the other sentence: N/A

- (d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future?

☐ Yes

☒ No

17. **TIMELINESS OF PETITION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition\*

Judgment of sentence became final on July 1, 2015, 90 days after discretionary review was denied. The federal statute was tolled during the pendency of my properly filed PCRA petition, filed ~~before~~ before judgment of sentence became final. I have 1 full year to file from 8/9/22, when PCRA proceedings were completed. I am filing before then.

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State Court. The limitation period shall run from the latest of -
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: appointment of counsel  
to file an amended petition, an evidentiary hearing, final habeas  
corpus relief.

or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
 Signature of Attorney (if any)

PAE AO 241  
(Rev. 07/10)

Page 19

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on \_\_\_\_\_.  
(month, date, year)

Executed (signed) on \_\_\_\_\_ (date).

\_\_\_\_\_  
*Signature of Petitioner*

If the person signing is not the petitioner, state the relationship to petitioner and explain why petitioner is not signing this petition.

*Petitioner was arranged to have a third party file this in person.*  
*/s/ Tyree Mosier, July 7, 2023*

REC'D JUL 10

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

TYREE MUSIER

(b) County of Residence of First Listed Plaintiff

Philadelphia

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

## DEFENDANTS

TINA WALKER, Superintendent

County of Residence of First Listed Defendant

Fayette

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Katherine Ernst Esq.  
Philadelphia DA's office

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☒ 1 PTF DEF Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 2254

Brief description of cause:

Habeas corpus petition under § 2254

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

July 10, 2023

SIGNATURE OF ATTORNEY OF RECORD

REC'D JUL 10

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**DESIGNATION FORM**

(to be used by counsel to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: SCI Fayette, No. KM6761, 48 Overlook Dr. LaBelle, PA 15450  
 Address of Defendant: SCI Fayette, 48 Overlook Dr. LaBelle, PA 15450  
 Place of Accident, Incident or Transaction: Philadelphia

**RELATED CASE IF ANY:**

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier Numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se case filed by the same individual?   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any now pending or within one year previously terminated action in this court except as note above.

DATE: \_\_\_\_\_

Attorney-at-Law *(Must sign above)*

Attorney I.D. # (if applicable)

**Civil (Place a ☒ in one category only)**

**A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts)
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Wage and Hour Class Action/Collective Action
- ☐ 6. Patent
- ☐ 7. Copyright/Trademark
- ☐ 8. Employment
- ☐ 9. Labor-Management Relations
- ☒ 10. Civil Rights
- ☐ 11. Habeas Corpus
- ☐ 12. Securities Cases
- ☐ 13. Social Security Review Cases
- ☐ 14. Qui Tam Cases
- ☐ 15. All Other Federal Question Cases. (Please specify): \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_
- ☐ 7. Products Liability
- ☐ 8. All Other Diversity Cases: (Please specify) \_\_\_\_\_

**ARBITRATION CERTIFICATION**

(The effect of this certification is to remove the case from eligibility for arbitration)

I, Tyree Musier, ~~counsel of record~~ pro se plaintiff, do hereby certify:

☐ Pursuant to Local Civil Rule 53.2 § 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☒ Relief other than monetary damages is sought.

DATE: July 10, 2023

Attorney-at-Law *(Sign here if applicable)*

Attorney ID # (if applicable)

NOTE: A trial de novo will be a jury only if there has been compliance with F.R.C.P. 38.